

**Notice of Allowability**

Application No.

10/713,131

Examiner

Robert R. Raevis

Applicant(s)

UCHIC ET AL.

Art Unit

2856

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--**

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☐ This communication is responsive to \_\_\_\_.
2. ☒ The allowed claim(s) is/are 1-3.
3. ☒ The drawings filed on 17 November 2003 are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some\* c) ☐ None of the:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).
- \* Certified copies not received: \_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.  
**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
6. ☐ CORRECTED DRAWINGS ( as "replacement sheets") must be submitted.
- (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review ( PTO-948) attached
- 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_.
- (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

**Attachment(s)**

1. ☒ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☒ Information Disclosure Statements (PTO-1449 or PTO/SB/08),  
Paper No./Mail Date 11-17-03
4. ☐ Examiner's Comment Regarding Requirement for Deposit  
of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☐ Interview Summary (PTO-413),  
Paper No./Mail Date \_\_\_\_.
7. ☐ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other \_\_\_\_.

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***Allowable Subject Matter***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Tench et al teach an indenter that both indents and images (col. 2, lines 55-62). However, the same "indenter" does not include both a tip having a flat and imaging probe as called for in claims 1-3 of the applications.

Suresch et al teach (Figure 1) use of an indenter 30 and area-measuring device 50 (possibly an imager, but not the claimed imager "probe"). However, those two elements are not combined into a single "indenter" (claim 1 of application). Note that elements 28,48,50,30 of Suresch do not define a single indenter, especially in view of Applicant's description (Paragraph Numbers 14 and 19) of an indenter as an indenter tip. Suresch's elements are connected together with a mount 28, said mount not being part of the tip.

Dutta et al teach use of a "probe" 40 with indenter 12, but the probe and indenter are not combined into a single "indenter" (claim 1 of application).

Fujita et al teach (col. 4, line 30) use of an imager with indenter 55a.

Yanagisawa et al teach "nanometer" (col. 4, line 56) resolution for a sensor.

Claim is allowable as the prior art neither teaches nor suggests a (single) "indenter" (line 1) that includes both "indentation tip" (with "flat on the distal end") and "imaging probe" as claimed. Applicants' written specification and drawings indicate that the "indenter" includes both elements, and is not to be confused with references whose indentation tip and sensors are *not part of the same indenter*. Weight was given to the

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problem solved by Applicant as described on pages 2-3 of the written specification.

Claims 2 and 3 are allowed for the same reason that claim 1 is allowed.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert R. Raevis whose telephone number is 571-272-2204. The examiner can normally be reached on Monday to Friday from 7am to 4pm. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



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